

Memorandum

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To: DEPUTY DISTRICT DIRECTORS FOR
ENVIRONMENTAL ANALYSIS
DISTRICT ENVIRONMENTAL
OFFICE CHIEFS

Date: November 19, 2003

File: EMO

From:  GARY R. WINTERS
Chief
Division of Environmental Analysis

Subject: 2003 Programmatic Categorical Exclusion Agreement

FHWA has approved a new Programmatic Categorical Exclusion (PCE) agreement that supersedes the September 1990 agreement. The 2003 PCE agreement applies to all federal-aid highway projects on the State Highway System (SHS) and local streets and roads. A copy of the signed agreement is attached.

The revised PCE is a result of one of the proposals in the "white paper" to U.S. DOT Secretary Norman Mineta and reflects conditions in other states' PCE agreements with their respective FHWA divisions. The agreement expands the criteria of project eligibility for programmatic approval of NEPA categorical exclusions. The attached table compares a summary of the conditions of the 1990 agreement and the 2003 agreement.

Review and Approval Procedures

The Department has committed to FHWA that it will use the following procedures to ensure appropriate use, review, and approval of PCEs under this agreement:

- On the SHS: District Environmental Office Chief (EOC)(or designee) determines if the action meets the criteria and signs PCE form.
- Off the SHS:
 - District Local Assistance Engineer (DLAE) and EOC review the PES form to determine if action meets the criteria. **BOTH DLAE AND EOC SIGN PES FORM.**
 - If action is on 771.117(c) list, the DLAE signs the PCE form.
 - If the action is on the 771.117(d) list, the **EOC REVIEWS THE PROJECT AND SIGNS THE PCE FORM.**

There are no new resources available from the Division of Local Assistance to fund the review of local assistance PCEs, however, we anticipate that the overall savings resulting from the new agreement will help to offset the additional review.

Reporting Requirements

All PCE determinations must be documented in writing on the standard CE/PCE form (revised November 2003) and shall be, together with all appropriate engineering reports and supporting environmental technical studies, retained in the District/Region's files for a minimum of three years (CE/PCE form attached). The project file shall be available for periodic process reviews by FHWA staff. At the time the Department requests authorization to proceed using Federal funds, it must notify FHWA that the CE concurrence for the project was programmatically approved in accordance with this agreement.

The Department will continue to prepare annual reports to FHWA on the use of the PCE Agreement. To facilitate the preparation of this report, district environmental branches will maintain a log of the following information for PCEs on the SHS for each calendar year:

- 1) Project EA,
- 2) District-County-Route-Kilopost/Postmile,
- 3) Brief Project Description, and
- 4) The date the PCE was signed.

The information for PCEs on the SHS for the previous calendar year will be due to DEA, Environmental Management Office by March 30th of each year. The Division of Local Assistance will transmit the guidelines for reporting local assistance PCE projects under separate cover.

This agreement shall be effective immediately for all federal-aid highway projects.

Attachments (2)

ATTACHMENT 1

Comparison of 1990 and 2003 PCE Agreements

1990 PCE Agreement	2003 PCE Agreement
Silent on 23 CFR 771.117(c) list	Specifically includes all (c) projects that don't have significant cumulative impacts or unusual circumstances [23 CFR 771.117(a) and (b)]
Allowed acquisition of "minor" right of way that do not include relocations	Defines a "minor" amount of right of way as four hectares (10 acres) and allows for up to four relocations
No finding of adverse effect under Section 106	Unchanged
No Section 4(f) involvement	Allows projects with programmatic Section 4(f) evaluations to be PCEs
No work in wetlands No 404 permits	Allows for work in wetlands if less than 1.5 acres and no NEPA/404 MOU involvement
No permanent encroachments in regulatory floodway No work affecting 100 year base floodplain	No encroachments in regulatory floodway No significant encroachment on 100 year base floodplain
No construction in, across, or adjacent to river in or proposed in National System of Wild and Scenic Rivers	Unchanged
No US Coast Guard construction permits	Unchanged
No hazardous waste or materials within R/W	Allows for aurally-deposited lead (ADL) within R/W where levels do not exceed 350 ppm or 5mg/liter soluble
No federally listed threatened or endangered species or critical habitat affected	No formal Section 7 consultation for T&E species or critical habitat. Allows for informal consultation
Project conforms to Air Quality SIP	Unchanged
Project is consistent with Coastal Zone plan	Unchanged
No provision for agricultural lands.	Disallows acquisition of agricultural land with score of 60 or more points on NRCS Form AD 1006.



U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

CALIFORNIA DIVISION

650 Capitol Mall, Suite 4-100

Sacramento, CA. 95814

November 14, 2003

IN REPLY REFER TO

HDA-CA

File #: Revised PCE

Document #: S44088

Mr. Jeff Morales, Director
California Department of Transportation
1120 N Street
Sacramento, CA 95814

Attention: Federal Resources Office, Room 3500
For Gary Winters

Dear Mr. Morales:

SUBJECT: Revised Programmatic Categorical Exclusion (PCE) Agreement

Enclosed is the original copy of the revised Programmatic Categorical Exclusion (PCE) Agreement between the Federal Highway Administration (FHWA) and the California Department of Transportation (Caltrans). This document supercedes the 1990 PCE Agreement between our respective agencies and will be a mutually beneficial environmental streamlining measure

Provided you concur with the terms of the revised PCE Agreement, please sign and return the completed, original document to our office. If you have any questions please call Stephanie Stoermer, Environmental Coordinator at (916) 498-5057 or e-mail Stephanie.Stoermer@fhwa.dot.gov.

Sincerely,

For

Gary N. Hamby

Division Administrator

Enclosure

PROGRAMMATIC CATEGORICAL EXCLUSION

The Federal Highway Administration, California Division, hereinafter FHWA, and the California Department of Transportation, hereinafter the Department, have developed this programmatic agreement to describe the policy and procedures for environmental processing of certain "Categorical Exclusion" (CE) actions as defined in 23 CFR 771.117 normally found to have no significant social, economic and environmental effects. The Department will act on behalf of the FHWA in determining that federal environmental requirements are met on the types of categorical exclusions actions identified in this agreement.

The actions listed under 23 CFR 771.117(c) are hereby established as programmatic categorical exclusions and do not require any further NEPA approvals by FHWA, provided:

1. The action does not, either individually or cumulatively, have any significant environmental impacts as described in 23 CFR 771.117(a); and
2. The action does not involve unusual circumstances as described in 23 CFR 771.117(b)

The actions listed under 23 CFR 771.117(d) may be classified as a programmatic categorical exclusion, provided the following conditions are met:

- The action does not, either individually or cumulatively have any significant environmental impacts as described in 23 CFR 771.117(a);
- The action does not involve significant controversy on environmental grounds;
- The action does not involve the acquisition of more than minor amounts of temporary or permanent strips of right-of-way. A minor amount of right-of-way normally is not more than four hectares (ten acres) and involves no more than four relocations. In situations where relocation of residences or businesses would occur, an analysis will be performed to determine the potential for community or environmental justice impacts; if the potential for these impacts exists, the project would not be deemed eligible for treatment as a PCE under this agreement;
- The action does not involve a determination of adverse effect for properties on or eligible for the National Register of Historic Places;
- The action does not require an individual Section 4(f) determination. A programmatic 4(f) determination may be involved, provided that FHWA has concurred in the 4(f) determination. The Department will conduct the necessary research and coordination to ascertain that the conditions associated with each programmatic 4(f) evaluation have been met and will obtain FHWA approval for its use;
- The action does not include wetland impacts of more than 1.5 acres or involvement with the NEPA/404 process. Enough information to issue a wetland finding must be included in the PCE documentation;
- The action does not encroach on a regulatory floodway, or in the event that the Federal Emergency Management Agency (FEMA) has not designated a regulatory floodway, the action will not significantly encroach on the base flood plain;

PROGRAMMATIC CATEGORICAL EXCLUSION

- The action does not involve construction in, across, or adjacent to a river designated as a component or proposed for inclusion in the National System of Wild and Scenic Rivers published by the U.S. Department of Interior/U.S. Department of Agriculture
- The action does not require any U.S. Coast Guard construction permits;
- The action does not involve any known hazardous materials sites or known hazardous materials remains within the proposed or existing right-of-way, with the exception of aerially deposited lead where levels do not exceed 350 parts per million or five milligrams per liter soluble;
- The action does not require formal Section 7 Consultation for federally listed endangered or threatened species or critical habitat;
- The action conforms to the Air Quality Implementation Plan, which is approved or promulgated by the Environmental Protection Agency in air quality non-attainment areas;
- The action is consistent with the State's Coastal Zone Management Plan, if applicable; and
- The action does not involve the acquisition of agricultural land with a total score of 60 points or greater Site Assessment points in Part VI of Natural Resource Conservation Service (NRCS) Form AD 1006.

PROCESS - The Department will consider and approve PCEs as follows:

Where the Department determines the action may be processed as described in this Agreement, the determination shall be appropriately documented in writing and retained in the District/Region's files. "Documentation" as referred to in this agreement is the appropriate engineering and environmental documentation required for a federally funded highway project, which substantiates that conditions of this agreement have been met including any technical analyses.

The Department shall notify the FHWA that CE concurrence for the project was programmatically approved in accordance with this Agreement at the time the Department requests authorization to proceed using Federal funds.

The documentation described above will be retained in the District environmental files and will be accessible to authorized representatives of FHWA and the Department for a minimum of three (3) years following completion of the project.

AGREEMENT REVISIONS – This Agreement may be modified by mutual consent at any time.

AGREEMENT TERMINATION – Either FHWA or the Department may terminate this Agreement in writing at any time.

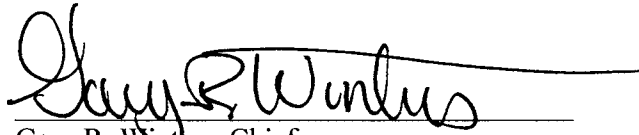
PROGRAMMATIC CATEGORICAL EXCLUSION

APPROVAL OF AGREEMENT – The undersigned have reviewed this Agreement and determined that it complies with the laws, regulations, and policies applicable to FHWA and the Department.

Accordingly, it is hereby approved and becomes effective on the last date noted below.

11/18/03

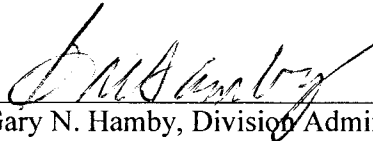
Date



Gary R. Winters, Chief
Division of Environmental Analysis
California Department of Transportation

11/7/2003

Date



Gary N. Hamby, Division Administrator
California Division
Federal Highway Administration

CATEGORICAL EXEMPTION CATEGORICAL EXCLUSION/PROGRAMMATIC CATEGORICAL EXCLUSION DETERMINATION FORM

Dist.-Co.-Rte. (or Local Agency)

K.P./K.P.(P.M/P.M.)

E.A. (State project)

Revised 11/2003
Proj. No. (Local project)
(Fed.Prog. Prefix
Proj. No., Agr. No.)

PROJECT DESCRIPTION: (Briefly describe project, purpose, location, limits, right-of-way requirements, and activities involved.)

Enter project description in this text box. Use Continuation Sheet, if necessary

CEQA COMPLIANCE (for State Projects only)

Based on an examination of this proposal, supporting information, and the following statements (See 14 CCR 15300 et seq.):

- If this project falls within exempt class 3, 4, 5, 6 or 11, it does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law.
- There will not be a significant cumulative effect by this project and successive projects of the same type in the same place, over time.
- There is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
- This project does not damage a scenic resource within an officially designated state scenic highway.
- This project is not located on a site included on any list compiled pursuant to Govt. Code § 65962.5 ("Cortese List").
- This project does not cause a substantial adverse change in the significance of a historical resource.

CALTRANS CEQA DETERMINATION

☐ **Exempt by Statute** (PRC 21080)

Based on an examination of this proposal, supporting information, and the above statements, the project is:

☐ **Categorically Exempt.** Class ____, or **General Rule exemption** (This project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment [CCR 15061(b)(3)])

Signature: Environmental Office Chief

Date

Signature: Project Manager

Date

NEPA COMPLIANCE (23 CFR 771.117)

Based on an examination of this proposal, supporting information, and the following statements.

- This project does not have a significant impact on the environment as defined by the NEPA.
- This project does not involve substantial controversy on environmental grounds.
- This project does not involve significant impacts on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act.
- In non-attainment or maintenance areas for Federal air quality standards: this project comes from a currently conforming plan and Transportation Improvement Program or is exempt from regional conformity.
- This project is consistent with all Federal, State, & local laws, requirements or administrative determinations relating to the environmental aspects of this action.

CALTRANS NEPA DETERMINATION

Based on an examination of this proposal, supporting information, and the statements above under "NEPA Compliance", it is determined that the project is a:

- ☐ **PROGRAMMATIC CATEGORICAL EXCLUSION (PCE):** Based on the evaluation of this project and supporting documentation in the project files, all the conditions of the November 18, 2003 Programmatic Categorical Exclusion Agreement have been met.
- ☐ **CATEGORICAL EXCLUSION (CE):** For actions that do not individually or cumulatively have a significant environmental effect and are excluded from the requirement to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS). Require FHWA determination.

Signature: Environmental Office Chief

Date

Signature: Project Manager/DLA Engineer

Date

FHWA DETERMINATION

Based on the evaluation of this project and the statements above, it is determined that the project meets the criteria of and is properly classified as a Categorical Exclusion (CE).

Signature: FHWA Project Development Engineer

Date

Additional information attached or referenced, as appropriate (e.g. Mitigation commitments **for NEPA only**; Air Quality studies or documentation of exemption from regional conformity or use of CO Protocol; §106 commitments; §4(f) or Programmatic §4(f); date of COE nationwide permit; § 7 species survey results; Wetlands Finding; Floodplain Finding; additional studies; design conditions. **Rev. 11/2003**

**CATEGORICAL EXEMPTION
CATEGORICAL EXCLUSION/PROGRAMMATIC CATEGORICAL EXCLUSION
DETERMINATION FORM**

CONTINUATION SHEET